

July 8, 2004

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of July 2004, at 8:00 P.M., and there were

PRESENT:           JEFFREY LEHRBACH, CHAIRMAN  
  
                          JOHN ABRAHAM, JR. MEMBER  
  
                          WILLIAM MARYNIEWSKI, MEMBER  
  
                          RICHARD QUINN, MEMBER  
  
                          ARLIE SCHWAN, MEMBER  
  
                          ROBERT THILL, MEMBER

ABSENT:           ANTHONY ESPOSITO, MEMBER

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
  
                          RICHARD SHERWOOD, TOWN ATTORNEY  
  
                          LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF MICHAEL BROWN:**

THE 1st CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the petition of Michael Brown, 55 Old Post Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to an attached garage on premises owned by the petitioner at 55 Old Post Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed structure would result in a west side yard set back of 4.96 feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a 7.5 foot west side yard set back. The petitioner, therefore, requests a west side yard set back variance of 2.54 feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Brown, petitioner 55 Old Post Road Lancaster, New York 14086	Proponent
Danny Bellows 57 Old Post Road Lancaster, New York 14086	Opponent
Frank Kirst 18 Woodgate Drive Lancaster, New York 14086	Opponent
Sue Bellows 57 Old Post Road Lancaster, New York	Opponent

**IN THE MATTER OF THE PETITION OF MICHAEL BROWN**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. LEHRBACH  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Brown and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of July 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That property owners of 59 Old Post Road, 57 Old Post Road and 24 Woodgate Drive have expressed their opposition to the granting of this variance in written communications to the Zoning Board of Appeals.

That the property owner of 18 Woodgate Drive present at the hearing has expressed opposition to the granting of the variance.

That a feasible alternative exists for the petitioner to pursue, namely the construction of a garage without brick facing, in accordance with the seven foot, six inch [7',6"] required property line set back.

That a survey of the neighborhood by Mr. Thill, a member of the Zoning Board of Appeals, revealed that on the horseshoe portion of Old Post Road from Woodgate Drive circling back to Woodgate Drive there are forty seven [47] homes with two [2] car garages and no three [3] car garages. Each home has maintained at least the seven foot, six inch [7',6"] set back.

That the home on Willow Ridge used as a comparison by the petitioner is located on a lot next to a detention basin and is set a great distance from the next neighbor.

That pursuant to testimony of the petitioner, he has many items that need to be stored on the premises for which he does not have adequate storage space.

That the requested area variance relief is substantial.

That the alleged difficulty is self created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is not the minimum variance necessary to afford relief.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to increase his garage area.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**CONSIDERED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

July 8, 2004

**PETITION OF FLOYD G. SCHILLING:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Floyd G. Schilling, 220 Westwood Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a storage building on premises owned by the petitioner at 220 Westwood Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is eight hundred sixty four [864] square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a one hundred fourteen [114] square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The location of the proposed storage building will result in a ten [10] foot east side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot lot line set back. The petitioner, therefore, requests a five [5] foot east side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Floyd Schilling, petitioner  
220 Westwood Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF FLOYD G. SCHILLING**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Floyd G. Schilling and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of July 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within an Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the variety of accessory structures on lots on Westwood Road, including the property immediately to the east and the property directly behind the subject property are in character to the variance requested by this petitioner.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the roof be earthtone in color
- That the accessory structure be set back from the east lot line at least twelve feet, six inches [12',6"].

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

July 8, 2004

**PETITION OF THOMAS M. HOFFMAN:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Thomas M. Hoffman, 41 Stony Brook Drive, Lancaster, New York 14086 for one [1] variance for the purpose of permitting a storage shed to remain as positioned on premises owned by the petitioner at 41 Stony Brook Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster. The storage shed was constructed one [1] foot six [6] inches from the existing garage.

Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster requires an accessory structure to be located ten [10] feet from any other structure. The petitioner, therefore, requests an eight [8] foot six [6] inch variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Thomas Hoffman, petitioner  
41 Stony Brook Drive  
Lancaster, New York 14086

Proponent



**IN THE MATTER OF THE PETITION OF THOMAS M. HOFFMAN**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Thomas M. Hoffman and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of July 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought; additional manpower and expertise may be necessary to relocate the structure to a safe area of the yard.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because of its potential for a fire hazard.

That the alleged difficulty is self created and precludes the granting of the area variance relief sought.

That there is a grave potential safety hazard to neighbors.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to utilize a storage shed in his rear yard in a location which is at a safe distance from other structures.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby  
**CONSIDERED.**

The question of the adoption of the foregoing resolution was duly put to a vote  
on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

July 8, 2004

**PETITION OF SCOTT T. JORDAN:**

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Scott T. Jordan, 10 Running Brook Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a storage shed on premises owned by the petitioner at 10 Running Brook Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the storage shed is three [3] feet from the west side yard lot line.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five foot side yard lot line set back for an accessory structure. The petitioner, therefore, requests a two [2] foot west side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Scott Jordan, petitioner  
10 Running Brook Drive  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF SCOTT T. JORDAN**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. SCHWAN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Scott T. Jordan and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of July 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **CONSIDERED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

July 8, 2004

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:20 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: July 8, 2004

